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STATE OF NEW JERSEY
218th LEGISLATURE

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SYNOPSIS

“Dignity for Incarcerated Primary Caretaker Parents Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 5, 2019, with amendments.

(Sponsorship Updated As Of: 12/17/2019)

1 AN ACT concerning incarcerated primary caretaker parents,
2 amending P.L.2005, c.155, and supplementing Title 30 and Title
3 52 of the Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as
9 the “Dignity for Incarcerated Primary Caretaker Parents Act.”

10

11 2. (New section) The Legislature finds and declares:

12 a. A growing segment of the prison population typically is
13 excluded from the criminal justice reform conversation and does not
14 get the attention it deserves: primary caretaker parents behind bars.
15 According to the Sentencing Project, in 2004, 52 percent of inmates
16 in state prisons and 63 percent in federal prisons were parents of
17 minor children. Most parents in prison are fathers, but the rate of
18 female incarceration in America is growing at an alarming
19 rate. While the number of fathers in prison increased 76 percent
20 between 1991 and 2007, the number of mothers in prison increased
21 by 122 percent during that period.

22 b. Presumably, the considerable growth in incarcerated parents
23 represents a considerable growth in incarcerated primary caretaker
24 parents. This is significant because these parents face unique
25 challenges. Their incarceration is not their burden to alone share; it
26 also greatly impacts their family. Many incarcerated primary
27 caretaker parents also are faced with difficult and competing
28 choices, like whether to use their limited funds to communicate
29 with their children or in the case of female inmates, to purchase
30 hygiene products in the commissary.

31 c. Therefore, it is necessary to create a strengthened
32 Corrections Ombudsperson in the Office of the Corrections
33 Ombudsperson to enforce the rights of inmates, provide access to
34 the benefits to which they are entitled, and ensure accountability,
35 transparency, monitoring, and continued improvements within all
36 correctional facilities.

37 d. It is time for this State to focus on its incarcerated primary
38 caretaker parents and provide them with the protections they
39 deserve.

40

41 3. (New section) As used in this act:

42 “Department” means the Department of Corrections.

43 “Isolated confinement” means the confinement of an inmate in a
44 correctional facility, pursuant to disciplinary, administrative,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted December 5, 2019.

1 protective, investigative, medical, or other classification, in a cell or
2 similarly confined holding or living space, alone or with other
3 inmates, for approximately 23 hours or more per day, with severely
4 restricted activity, movement, and social interaction, and shall
5 include, but not be limited to, administrative segregation,
6 disciplinary segregation, solitary confinement, and protective
7 segregation.

8 “Office” means the Office of the Corrections Ombudsman.

9 “Primary caretaker parent” means any inmate who has a child
10 under the age of 18, who prior to the inmate’s incarceration, spent
11 the majority of days in the care of the inmate parent, and whose
12 access to that child has not been terminated by court order, the
13 inmate’s own request, or other circumstance.

14 “Restraint” mean any physical restraint or mechanical device
15 used to control the movement of a inmate’s or detainee’s body and
16 limbs, including, but not limited to, shackles, flex cuffs, soft
17 restraints, hard metal handcuffs, a black box, Chubb cuffs, leg
18 irons, belly chains, a security or tether chain, or a convex shield.

19

20 4. (New section) The Commissioner of Corrections shall:

21 a. place an inmate who has a minor child in a State correctional
22 facility as close as possible to that child’s place of residence at the
23 request of the inmate and prior to sentencing;

24 b. establish policies that encourage and promote visitation,
25 particularly for inmates who are primary caretaker parents,
26 including, but not limited to:

27 (1) requiring the visitation program be in operation at least six
28 days per week, including Saturday and Sunday, for at least ¹**[four]**
29 three¹ hours per visit;

30 (2) prohibiting restrictions on the number of minor children
31 allowed to visit an inmate;

32 (3) authorizing up to three adult visitors; and

33 (4) authorizing contact visits;

34 c. prohibit the isolated confinement of a pregnant woman;

35 d. prohibit a staff member of, or medical service provider for, a
36 correctional facility from restraining a woman known to be
37 pregnant or applying restraints during any stage of labor, any
38 pregnancy related medical distress, delivery, or postpartum;

39 e. provide parenting classes to primary caretaker parents;

40 f. provide appropriate trauma informed care to inmates who
41 are primary caretaker parents and train correctional police officers
42 on how to interact with inmates who are victims of trauma;

43 g. allow former inmates who have returned to society, after
44 appropriate internal clearance, to mentor current inmates who are
45 incarcerated primary caretaker parents and assist these inmates with
46 reentry efforts;

1 h. require standard feminine hygiene products, including but
2 not limited to, tampons and sanitary pads, be provided at the request
3 of and free of charge to female inmates, and petroleum jelly,
4 aspirin, ibuprofen, and any other item deemed appropriate by the
5 commissioner, to be made available to inmates from the
6 commissary or medical department;

7 i. restrict correctional police officers and other department
8 employees from entering the restrooms and shower facilities of
9 inmates of the opposite sex when occupied except when deemed
10 necessary by the commissioner; and

11 j. allow all pregnant women and inmates who are primary
12 caretaker parents to enroll in residential drug abuse and mental
13 health programs provided they meet the requirements of those
14 programs.

15
16 5. (New section) The chief executive officer or warden of each
17 county correctional facility shall:

18 a. establish policies that encourage and promote visitation,
19 particularly for inmates who are primary caretaker parents,
20 including, but not limited to:

21 (1) requiring in-person visitation three days per week, including
22 Saturday and Sunday, for at least 30 minutes per visit;

23 (2) prohibiting restrictions on the number of children allowed to
24 visit an inmate consistent with current regulations;

25 (3) authorizing up to two adult visitors; and

26 (4) providing consistent access to contact visits;

27 (5) authorizing contact visits with children;

28 b. prohibit the isolated confinement of a pregnant woman;

29 c. prohibit a staff member of, or medical service provider for, a
30 county correctional facility from restraining a woman known to be
31 pregnant or applying restraints during any stage of labor, any
32 pregnancy related medical distress, delivery, or postpartum;

33 d. provide parenting classes to inmates who are primary
34 caretaker parents;

35 e. provide trauma informed care to inmates who are primary
36 caretaker parents and train correctional police officers on how to
37 interact with inmates who are victims of trauma;

38 f. allow former inmates who are participating members of a
39 non-profit or reentry organization mentorship or visitation program
40 approved by the chief executive officer or warden to mentor current
41 inmates who are incarcerated primary caretaker parents and assist
42 these inmates with reentry efforts;

43 g. require standard feminine hygiene products, including but
44 not limited to tampons and sanitary pads, be provided at the request
45 of and free of charge to female inmates, and petroleum jelly,
46 aspirin, ibuprofen, and any other item deemed appropriate by the

1 chief executive officer or warden, to be provided at the request of
2 and free of charge to inmates;

3 h. restrict correctional police officers and other department
4 employees from entering the restrooms and shower facilities of
5 inmates of the opposite sex when occupied except when deemed
6 necessary by the chief executive officer or warden; and

7 i. allow all pregnant women and inmates who are primary
8 caretaker parents to enroll in residential drug abuse and mental
9 health programs provided they meet the requirements of those
10 programs.

11

12 6. Section 26 of P.L.2005 (C.52:27EE-26) is amended to read
13 as follows:

14 26. Office of Corrections Ombudsperson; transfer of functions.

15 a. All functions, powers, and duties now vested in the
16 Corrections Ombudsperson in the Department of the Public
17 Advocate are hereby transferred to and assumed by the Office of the
18 Corrections Ombudsperson in, but not of, the Department of the
19 Treasury. **【The Corrections Ombudsperson shall be appointed by**
20 **the Governor.】** For the purposes of complying with the provisions
21 of Article V, Section IV, paragraph 1 of the New Jersey
22 Constitution, the Office of the Corrections Ombudsperson is hereby
23 allocated to the Department of the Treasury, but, notwithstanding
24 this allocation, the **【ombudsperson】** Office of the Ombudsperson
25 shall be independent of any supervision or control by the
26 **【department】** Department of Treasury or by any board or officer
27 thereof.

28 b. Whenever, in any law, rule, regulation, order, reorganization
29 plan, contract, document, judicial, or administrative proceeding, or
30 otherwise, reference is made to the Corrections Ombudsperson in
31 the Department of the Public Advocate the same shall mean and
32 refer to the Office of the Corrections Ombudsperson in, but not of,
33 the Department of the Treasury.

34 c. The office shall be responsible for:

35 (1) providing information to inmates and their families;

36 (2) promoting public awareness and understanding of the rights
37 of inmates;

38 (3) identifying systemic issues and responses upon which the
39 Governor and Legislature may act; and

40 (4) ensuring compliance with relevant statutes, rules,
41 regulations, and policies concerning corrections facilities, services,
42 and treatment of inmates under the jurisdiction of the department.

43 d. The Corrections Ombudsperson shall serve as the head of
44 the Office of the Corrections Ombudsperson.

45 (1) The corrections ombudsperson shall be appointed by the
46 Governor from qualified persons of recognized judgment,

- 1 independence, objectivity, and integrity, who are qualified by
2 training or experience in corrections law and policy.
- 3 (2) A person shall be disqualified from being appointed as
4 ombudsperson if the person or the person's spouse:
- 5 (a) is or has been employed by or participates in the
6 management of a business entity or other organization receiving
7 funds from the department within the last five years;
- 8 (b) owns or controls, directly or indirectly, any interest in a
9 business entity or other organization receiving funds from the
10 department within the last five years;
- 11 (c) uses or receives any amount of tangible goods, services, or
12 funds from the department; or
- 13 (d) is required to register as a lobbyist because of the person's
14 activities for compensation on behalf of a profession related to the
15 operation of the department or the office.
- 16 e. The corrections ombudsperson shall hold the office for a
17 term of five years and continue to hold the office until reappointed
18 or the appointment of a successor. The Governor may remove the
19 ombudsperson only for neglect of duty, misconduct, or the inability
20 to perform duties. Any vacancy shall be filled by similar
21 appointment for the remainder of the unexpired term.
- 22 f. The corrections ombudsperson shall report directly to the
23 Governor.
- 24 g. The office shall be adequately funded and staffed with the
25 requisite number of employees with expertise and training
26 necessary to carry out the duties of the office.
- 27 h. The corrections ombudsperson may employ assistants to
28 perform duties and exercise the same powers as the ombudsperson.
- 29 i. A person may not serve as an assistant corrections
30 ombudsperson or employee of the office if the person or the
31 person's spouse:
- 32 (a) is or has been employed by or participates in the
33 management of a business entity or other organization receiving
34 funds from the Department within the last five years;
- 35 (b) owns or controls, directly or indirectly, any interest in a
36 business entity or other organization receiving funds from the
37 department within the last five years;
- 38 (c) uses or receives any amount of tangible goods, services, or
39 funds from the department; or
- 40 (d) is required to register as a lobbyist because of the person's
41 activities for compensation on behalf of a profession related to the
42 operation of the department or the office.
- 43 j. The corrections ombudsperson may employ technical experts
44 and other employees or consultants necessary to perform the duties
45 of the office.
- 46 (cf: P.L.2010, c.34, s.24)

- 1 7. Section 28 of P.L.2005 (C.52:27EE-28) is amended to read
2 as follows:
- 3 28. Corrections Ombudsperson; duties.
- 4 a. The Corrections Ombudsperson shall establish and
5 implement procedures for eliciting, receiving, processing,
6 responding, and resolving complaints from inmates, their families,
7 other interested citizens, public officials, and government agencies
8 concerning conditions in the correctional facilities noted in section
9 27 of [this act] of P.L.2005 (C. 52:27EE-27).
- 10 b. To implement the provisions of P.L. c. (pending before
11 the Legislature as this bill), the ombudsperson shall:
- 12 (1) establish priorities for use of the resources available to the
13 ombudsperson;
- 14 (2) maintain a Statewide toll-free telephone number, a collect
15 telephone number, a website, and a mailing address for the receipt
16 of complaints and inquiries;
- 17 (3) provide information, as appropriate, to inmates, family
18 members and representatives of inmates, department employees,
19 and others regarding the rights of inmates;
- 20 (4) provide technical assistance to support inmate participation
21 in self-advocacy;
- 22 (5) monitor compliance with applicable federal, State, county,
23 and municipal laws, rules, regulations, and policies related to the
24 health, safety, welfare, and rehabilitation of inmates;
- 25 (6) monitor and participate in legislative and policy
26 developments affecting correctional facilities;
- 27 (7) establish a Statewide uniform reporting system to collect and
28 analyze data related to complaints received by the ombudsperson
29 regarding the department;
- 30 (8) establish procedures to receive, investigate, and resolve
31 complaints;
- 32 (9) establish procedures to gather stakeholder input into the
33 ombudsperson's activities and priorities, which shall include
34 holding public meetings at least quarterly;
- 35 (10) by November 1st of each year, annually submit to the
36 Governor's office and the Legislature, and make publicly available,
37 a report that is both aggregated and disaggregated by each facility
38 and includes, at a minimum, the following information:
- 39 (a) the budget and expenditures of the ombudsperson;
- 40 (b) the number of complaints received and resolved by the
41 ombudsperson;
- 42 (c) a description of significant systemic or individual
43 investigations or outcomes achieved by the ombudsperson in the
44 preceding year;
- 45 (d) any outstanding or unresolved concerns or recommendations
46 of the ombudsperson; and

1 (e) input and comments from stakeholders regarding the
2 ombudsperson's activities during the preceding year.

3 (11) promote awareness among department employees, inmates,
4 and family members and other members of the public regarding:

5 (a) how the Office of Corrections Ombudsperson may be
6 contacted;

7 (b) the purpose of the office; and

8 (c) the services provided by the office.

9 (12) provide assistance to an inmate or family member whom
10 the ombudsperson determines is in need of assistance, including
11 advocating with an agency, provider, or other person in the best
12 interests of the inmate;

13 (13) make appropriate referrals under any of the powers and
14 duties of the office, including to appropriate law enforcement
15 authorities when criminal complaints by inmates are received by the
16 office;

17 (14) attend any relevant training provided to correctional
18 officers and participate in other appropriate professional training;

19 (15) notwithstanding any other provision of law to the contrary,
20 review criminal investigations to ensure the investigations were
21 accurate, unbiased, and thorough without investigating alleged
22 criminal behavior; and

23 (16) adopt and comply with rules, policies, and procedures
24 necessary to implement the provisions of P.L. c. (pending
25 before the Legislature as this bill).

26 (cf: P.L.2005, c.155, s.28)

27
28 8. (New section) The corrections ombudsperson shall conduct
29 investigations of inmate complaints in accordance with the
30 provisions of this section.

31 a. The ombudsperson may initiate and attempt to resolve an
32 investigation upon the ombudsperson's own initiative, or upon
33 receipt of a complaint from an inmate, a family member, a
34 representative of an inmate, a department employee, or any other
35 person, including but not limited to any of the following that may
36 adversely affect the health, safety, welfare, or rights of inmates:

37 (1) abuse or neglect;

38 (2) department decisions or administrative actions;

39 (3) inactions or omissions;

40 (4) policies, rules, or procedures; or

41 (5) alleged violations of law by the department that may
42 adversely affect the health, safety, welfare, or rights of inmates.

43 b. If the ombudsperson does not investigate a complaint, the
44 ombudsperson shall notify the complainant of the decision not to
45 investigate and the reasons for the decision.

46 c. The ombudsperson shall not investigate any complaints
47 relating to an inmate's underlying criminal conviction.

- 1 d. The ombudsperson shall not investigate a complaint from a
2 department employee that relates to the employee's employment
3 relationship with the department or the administration of the
4 department, unless the complaint is related to the health, safety,
5 welfare, and rehabilitation of inmates.
- 6 e. The ombudsperson shall attempt to resolve any complaint at
7 the lowest possible level.
- 8 f. The ombudsperson may refer complainants and others to
9 appropriate resources, agencies, or departments.
- 10 g. The ombudsperson shall not impose any fee for the
11 submission or investigation of complaints.
- 12 h. The ombudsperson shall remain neutral and impartial and
13 shall not act as an advocate for the complainant or for the
14 department.
- 15 i. At the conclusion of an investigation of a complaint, the
16 ombudsperson shall render a public decision on the merits of each
17 complaint, except that the documents supporting the decision are
18 subject to relevant confidentiality provisions. The ombudsperson
19 shall communicate the decision to the inmate, if appropriate, and to
20 the department. The ombudsperson shall state its recommendations
21 and reasoning if, in the ombudsperson's opinion, the department or
22 any employee should:
- 23 (1) further consider the matter;
24 (2) modify or cancel any action;
25 (3) alter a rule, practice, or ruling;
26 (4) explain in detail the administrative action in question; or
27 (5) rectify an omission.
- 28 j. At the ombudsperson's request, the department shall, within
29 the time specified, inform the ombudsperson about any action taken
30 on the recommendations or the reasons for not complying with the
31 recommendations.
- 32 k. If the ombudsperson concludes, based on the investigation,
33 that there has been, or continues to be, a significant issue regarding
34 an inmate's health, safety, welfare, or rehabilitation, the
35 ombudsperson shall report the finding to the Governor and the
36 Legislature.
- 37 l. Before announcing a conclusion or recommendation that
38 expressly, or by implication, criticizes a person or the department,
39 the ombudsperson shall consult with that person or the department.
40 The ombudsperson may request to be notified by the department,
41 within a specified time, of any action taken on any recommendation
42 presented. The ombudsperson shall notify the inmate, if appropriate,
43 of the actions taken by the department in response to the
44 ombudsperson's recommendations.
- 45 m. The ombudsperson shall make available to inmates
46 confidential means by which to report concerns or otherwise submit
47 complaints to the ombudsperson, which may include electronic

1 means or a locked box, accessible only by the ombudsperson and
2 the employees of the ombudsperson. All measures shall be taken to
3 ensure there is no risk or credible fear of retaliation against inmates
4 for submitting complaints to the ombudsperson.

5 n. Submission of complaints to the ombudsperson shall not be
6 part of the department administrative grievance or appeal process,
7 and the ombudsperson's decisions shall not constitute agency
8 action. Nothing in this section shall be deemed to constitute part of
9 the administrative exhaustion process. The ombudsperson shall not
10 require inmates to file grievances or other inquiries as part of the
11 department's system to be considered ripe for review by the
12 ombudsperson.

13

14 9. (New section) The corrections ombudsperson shall conduct
15 inspections of State correctional facilities in accordance with the
16 provisions of this section.

17 a. The ombudsperson shall conduct regular inspections of all
18 department facilities and issue public reports of all inspections.

19 b. ¹~~['The]~~ Except for ongoing criminal investigations, Prison
20 Rape Elimination Act (PREA) investigations, or other information,
21 records, or investigations deemed confidential by the Special
22 Investigations Division of the department, and with the exception of
23 Special Investigations Division evidence rooms, the¹ ombudsperson
24 may inspect, examine, or assess all aspects of a facility's operations
25 and conditions including, but not limited to:

- 26 (1) staff recruitment, training, supervision, and discipline;
27 (2) inmate deaths or serious injuries;
28 (3) incidences of physical and sexual assault;
29 (4) medical and mental-health care;
30 (5) use of force;
31 (6) inmate violence;
32 (7) conditions of confinement;
33 (8) inmate disciplinary processes;
34 (9) inmate grievance processes;
35 (10) substance-abuse treatment;
36 (11) educational, vocational, and other programming;
37 (12) family visitation and communication practices; and
38 (13) rehabilitation, reentry, and integration practices.

39 c. ¹~~['The]~~ Except as provided in subsection b. of this section,
40 the¹ ombudsperson shall utilize a range of methods to gather and
41 substantiate facts, including observations, interviews with inmates,
42 inmate surveys, document and record reviews, ¹~~['video and tape~~
43 ~~recordings,']~~¹ reports, statistics, and performance-based outcome
44 measures.

45 d. Facility and other governmental officials are authorized and
46 shall be required to cooperate fully and promptly with inspections.

1 e. ¹**【The】** Except as provided in subsection b. of this section,
2 the¹ ombudsperson shall be vested with the authority to conduct
3 both scheduled and unannounced inspections of any part or all of
4 the facility at any time. The ombudsperson shall adopt procedures
5 to ensure that unannounced inspections are conducted in a
6 reasonable manner.

7 f. Facility administrators shall be provided an opportunity to
8 review reports and provide feedback about them to the
9 ombudsperson before their dissemination to the public, but the
10 release of the reports is not subject to approval from any entity or
11 person outside the office.

12 g. Reports shall apply legal requirements, best correctional
13 practices, and other criteria to objectively and accurately review and
14 assess a facility's policies, procedures, programs, and practices;
15 identify systemic problems and the reasons for them; and proffer
16 possible solutions to those problems.

17 h. Subject to reasonable privacy and security requirements, ¹or
18 as may be necessary to protect the safety or privacy of persons or
19 the safe, secure, and orderly operation of State correctional
20 facilities, as determined by the department or the Special
21 Investigations Division,¹ the ombudsperson's reports shall be
22 public, accessible through the Internet, and distributed to the media,
23 Legislature, Attorney General, and Governor.

24 i. Facility administrators shall publicly respond to monitoring
25 reports; develop and implement in a timely fashion action plans to
26 rectify problems identified in those reports; and to semi-annually
27 inform the public of their progress in implementing these action
28 plans.

29 j. The ombudsperson shall continue to assess and report on
30 previously identified problems and the progress made in resolving
31 them until the problems are resolved.

32
33 10. (New section) The corrections ombudsperson shall be
34 provided access to correctional facilities and inmate records in
35 accordance with the provisions of this section.

36 a. ¹**【The】** Subject to the provisions of subsection b. of this
37 section, and except as provided in subsection b. of section 9 of
38 P.L. c. (C.) (pending before the Legislature as this bill),
39 the¹ ombudsperson shall have reasonable access to correctional
40 facilities at all times necessary to ¹**【conduct】** ensure that¹ a full
41 investigation of an incident of abuse or neglect ¹**【or to conduct** ¹**【or to conduct**
42 a facility inspection, including the opportunity to interview any
43 inmate, department employee, or other person, or the alleged victim
44 of abuse who is reasonably believed by the facility to have
45 knowledge relevant to an inspection or incident under
46 investigation **】** has been conducted¹.

- 1 b. ¹**【Access】** Except as provided in subsection b. of section 9
2 of P.L. c. (C.) (pending before the Legislature as this
3 bill), access¹ to investigate a complaint shall be afforded when:
4 (1) an incident is reported or a complaint is made to the office;
5 (2) the ombudsperson ¹reasonably¹ determines there is
6 ¹**【probable】¹** cause to believe that an incident has or may have
7 occurred; ¹**【or】¹**
8 (3) the ombudsperson determines that there is or may be
9 imminent danger of serious abuse or neglect of an inmate ¹;
10 (4) the ombudsperson has referred the incident or complaint to
11 the department for investigation; and
12 (5) the department has declined to investigate the incident or
13 complaint¹.
14 c. ¹**【The】** Except as provided in subsection b. of section 9 of
15 P.L. c. (C.) (pending before the Legislature as this bill),
16 the¹ ombudsperson shall have reasonable access to all department
17 facilities, including all areas which are used by inmates, all areas
18 which are accessible inmates, and to programs for inmates for the
19 purpose of:
20 (1) providing information about person's rights and the services
21 available from the office, including the name, address, and
22 telephone number of the office; ¹and¹
23 (2) monitoring compliance with respect to the rights and safety
24 of inmates ¹**【**; and
25 (3) inspecting, viewing, photographing, and video recording all
26 areas of the facility ¹**】¹.**
27 d. ¹**【The】** Except as provided in subsection b. of section 9 of
28 P.L. c. (C.) (pending before the Legislature as this bill),
29 the¹ ombudsperson shall be vested with the authority to regularly
30 meet, interview, and privately and confidentially communicate with
31 any person, including staff and inmates, both formally and
32 informally, by telephone, mail, and in person.
33 e. ¹**【The】** Except as provided in subsection b. of section 9 of
34 P.L. c. (C.) (pending before the Legislature as this bill),
35 the¹ ombudsperson has the right to access, inspect, and copy all
36 relevant information, records, or documents in the possession or
37 control of the department that the ombudsperson considers
38 necessary in an investigation of a complaint or the inspection of a
39 facility ¹**【**, including confidential Special Investigation Division
40 reports and records ¹**】¹.** ¹**【The】** Except as provided in subsection b.
41 of section 9 of P.L. c. (C.) (pending before the
42 Legislature as this bill), the¹ department ¹**【shall】** may, upon the
43 request of the ombudsperson,¹ assist the ombudsperson in obtaining
44 ¹**【the necessary】¹** releases for those documents which are
45 specifically restricted or privileged for use by the ombudsperson ¹,

1 provided however, the department shall not be liable in the case of a
2 refusal to execute a release¹.

3 f. ¹**Following** Except as provided in subsection b. of section
4 9 of P.L. c. (C.) (pending before the Legislature as this
5 bill), following¹ notification from the ombudsperson with a written
6 demand for access to agency records, the delegated department staff
7 shall provide the ombudsperson with access to the requested
8 documentation not later than 20 business days after the
9 ombudsperson's request. ¹**If** the records requested by the
10 ombudsperson pertain to an inmate death, threats of bodily harm
11 including, but not limited to, sexual or physical assaults, or the
12 denial of necessary medical treatment, the records shall be provided
13 within five days unless the ombudsperson consents to an extension
14 of that timeframe.]¹

15 g. Upon notice and request by the ombudsperson, a State,
16 county, or municipal government agency or entity that has records
17 relevant to a complaint or an investigation conducted by the
18 ombudsperson shall provide the ombudsperson with access to the
19 records.

20 h. The ombudsperson shall work with the department to
21 minimize disruption to the department's operations due to
22 ombudsperson activities and shall comply with the department's
23 security clearance processes, provided those processes do not
24 impede the ombudsperson from carrying out the responsibilities set
25 forth in this section.

26 i. The ombudsperson shall be authorized to hold public
27 hearings, to subpoena witnesses and documents, and to require that
28 witnesses testify under oath.

29 j. The ombudsperson shall enact procedures to enable facility
30 administrators, line staff, inmates, and others to transmit
31 information confidentially to the monitoring entity about the
32 facility's operations and conditions. Adequate safeguards shall be
33 established to protect persons who transmit information to the
34 monitoring entity from retaliation and threats of retaliation.

35 k. Facility and other governmental officials shall be authorized
36 and required to cooperate fully and promptly with the
37 ombudsperson. To the greatest extent possible and consistent with
38 the ombudsperson's duties and responsibilities under
39 P.L. c. (C.) (pending before the Legislature as this bill),
40 the ombudsperson shall collaboratively and constructively work
41 with administrators, legislators, and other appropriate persons to
42 improve the facility's operations and conditions.

43
44 11. (New section) Correspondence and communication with
45 the corrections ombudsperson shall be confidential and protected as
46 privileged correspondence in the same manner as legal
47 correspondence or communication.

- 1 a. The ombudsperson shall establish confidentiality rules and
2 procedures for all information maintained by the office.
- 3 b. The ombudsperson shall treat all matters under investigation,
4 including the identities of recipients of ombudsperson services,
5 complainants, and persons from whom information is acquired, as
6 confidential, except as far as disclosures may be necessary to enable
7 the ombudsperson to perform the duties of the office and to support
8 any recommendations resulting from an investigation. Upon receipt
9 of information that, by law, is confidential or privileged, the
10 ombudsperson shall maintain the confidentiality of the information
11 and shall not further disclose or disseminate the information except
12 as provided by applicable federal or State law or as authorized by
13 this section.
- 14 c. To the extent the ombudsperson reasonably believes
15 necessary, the ombudsperson:
- 16 (1) shall reveal information obtained in the course of providing
17 services to prevent reasonably certain death or substantial bodily
18 harm; and
- 19 (2) may reveal information obtained in the course of providing
20 ombudsperson services to prevent the commission of a crime.
- 21 d. If the ombudsperson believes it is necessary to reveal
22 investigative records pursuant to subsection c. of this section, the
23 ombudsperson shall provide a copy of what is intended to be
24 disclosed to the department for review and application of legal
25 exemptions prior to releasing the records to any other person. If the
26 ombudsperson personally receives identifying information
27 concerning a member of the corrections staff during the course of
28 an investigation that the ombudsperson determines is unrelated or
29 unnecessary to the subject of the investigation or recommendation
30 for action, the ombudsperson shall not further disclose the
31 information. If the ombudsperson determines that the disclosure is
32 necessary to an investigation or recommendation, the ombudsperson
33 shall contact the staff member, as well as the bargaining unit
34 representative. before any disclosure.
- 35
- 36 12. (New section) A civil action shall not be brought against
37 any employee of the Office of the Ombudsperson for the good faith
38 performance of responsibilities under P.L. c. (pending before
39 the Legislature as this bill).
- 40 a. A discriminatory, disciplinary, or retaliatory action shall not
41 be taken against a department employee, subcontractor, or
42 volunteer, an inmate, or a family member or representative of an
43 inmate for any communication made, or information given or
44 disclosed, to aid the office in carrying out its responsibilities, unless
45 the communication or information is made, given, or disclosed
46 maliciously or without good faith.

1 b. This section is not intended to infringe on the rights of an
2 employer to supervise, discipline, or terminate an employee for
3 other reasons.

4
5 13. (New section) An advisory board shall be established to
6 advise the Office of the Corrections Ombudsperson. The Governor
7 shall appoint three positions, the President of the Senate shall
8 appoint three positions, and the Speaker of the General Assembly
9 shall appoint three positions. The advisory board shall designate
10 positions for representatives of the following areas of expertise:
11 investigations, health care, sexual assault victims' advocacy, social
12 work, occupational safety and health, and research and data
13 analysis. At least one position on the advisory board shall be filled
14 by a family member of an inmate or by a formerly incarcerated
15 person.

16
17 14. This act shall take effect on the first day of the seventh
18 month next following enactment.